

1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF OREGON

3 GARY ODOM,)
)
4 Plaintiff,) No. CV-09-230-MO
)
5 vs.)
)
6 MICROSOFT CORPORATION,)
)
7 Defendant.)

8 _____)
9 GARY ODOM,)
)
10 Plaintiff,) No. CV-09-236-MO
)
11 vs.)
)
12 AUTODESK, INC., a Delaware)
corporation,) January 4, 2010
)
13 Defendant.) Portland, Oregon
)
14 _____)

15
16 **Telephone Status Conference**

17 TRANSCRIPT OF PROCEEDINGS

18 BEFORE THE HONORABLE MICHAEL W. MOSMAN

19 UNITED STATES DISTRICT COURT JUDGE
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APPEARANCES

FOR THE PLAINTIFF: Mr. Gary Odom, pro se
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FOR DEFENDANT
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(P R O C E E D I N G S)

THE CLERK: Mr. Odom.

MR. ODOM: Yes.

THE CLERK: Mr. Freed.

MR. FREED: Yes.

THE CLERK: Mr. Farnell.

MR. FARNELL: Yes.

THE CLERK: Mr. Newell.

MR. NEWELL: Yes.

THE CLERK: Mr. Micallef.

MR. MICALLEF: Micallef, yes.

THE CLERK: Thank you.

This is the time and place set for a telephone status conference in two cases. The first case is 09-CV-230-MO, Odom v. Microsoft Corporation. The second case is 09-236-MO, Odom v. Autodesk, Inc.

We do have a court reporter reporting these proceedings, so we ask that each time you speak, you identify yourself.

And counsel, could you please identify yourself for the record.

MR. FREED: Joel Freed for Autodesk.

MR. FARNELL: Mike Farnell for Autodesk.

MR. MICALLEF: Joe Micallef for Microsoft, and with me is Matt Bathon for Microsoft.

1 MR. NEWELL: And Bob Newell for Microsoft.

2 THE CLERK: Thank you.

3 And here is Judge Mosman.

4 THE COURT: Mr. Odom, you're on the line also?

5 MR. ODOM: Yes, sir.

6 THE COURT: When we called at just a minute or two
7 after 10:00, you weren't ready, apparently in the shower.
8 Don't let that happen again with a court appearance. Is
9 that understood?

10 MR. ODOM: I apologize. I was not aware of the
11 10:00 a.m. call. My apology.

12 THE COURT: We're here to figure out what to do
13 with the schedule in light of your efforts to obtain
14 replacement counsel. Can you tell me anything about your
15 progress on that front?

16 MR. ODOM: Yes. Mintz Levin -- Paul Hayes is the
17 senior counsel there -- is interested in taking the case.
18 They are in the final stages of securing equity financing
19 funding for a portion of the cost of the case.

20 THE COURT: What city are they located in?

21 MR. ODOM: They're in Boston, Massachusetts. I
22 can give you Paul Hayes' phone number if you'd care to speak
23 with him. They had -- they had requested to me that they be
24 given additional time to secure the financing, and they will
25 register as soon as possible.

1 THE COURT: Can you tell me anything about the
2 timetable they think that's on?

3 MR. ODOM: They asked me for 30 additional days.

4 THE COURT: All right. Then from Autodesk, what's
5 your position at this point about the schedule in this case?

6 MR. FREED: Well, Your Honor, given the delay
7 here, we had originally asked for a stay and gave the reason
8 pending the outcome of the Microsoft case because it may
9 dispose of many, many of the issues in our case, if not all
10 of them. And what you had done was put us on a trailer to
11 the Microsoft case, and our position is that we ought to
12 either remain on the trailer or we should have a complete
13 stay instituted, pending the outcome of the Microsoft case.

14 THE COURT: Thank you.

15 And for Microsoft, your position regarding the
16 schedule in this case?

17 MR. MICALLEF: Well, Your Honor, I'm not sure too
18 I understand exactly what the position of Mintz Levin is
19 here. I think I had heard that they had not yet been
20 retained and therefore not entered an appearance and that
21 they're trying to get some financing. That, of course -- if
22 that's the case, that may never happen. So I guess our view
23 would be to try to get this case going as soon as possible.
24 I don't mean to suggest that we have to, you know, do it
25 today, but I think leaving it open ended, waiting for

1 counsel to obtain some funding from somewhere would seem to
2 be -- well, not very prudent.

3 THE COURT: I agree. What are you suggesting we
4 do at this point?

5 MR. MICALLEF: Well, let's perhaps set a date
6 certain where we can pick up the schedule where we left it
7 off and go from there. That gives -- certainly would give
8 the plaintiff a chance to finish whatever negotiations he
9 has going on with Mintz Levin and gives Mintz Levin -- well,
10 it certainly sets the ground, sets the -- gives Mintz
11 Levin -- tells Mintz Levin what's going on and exactly what
12 they need to do and when.

13 THE COURT: I'm going to put you all on hold for
14 just a moment.

15 (There is a pause in the proceedings.)

16 THE COURT: I'm going to set this for a further
17 status conference on January 26th, at 11:45 here, our local
18 time. If Mintz Levin is going to be on the case, they need
19 to be on the case by then and make an appearance.

20 If they're on the case before then, then I request
21 that counsel and Microsoft meet and confer prior to the
22 phone conference to establish new deadlines in the case, or
23 I should say at least to recommend new deadlines in the
24 case. If they're not on the case, we'll hold the status
25 conference on that date and we'll set new dates even without

1 counsel present so that the case will start moving forward,
2 at the latest, January 26th. And, of course, if they're not
3 on the case, I'll still ask you to do what you can to meet
4 and confer regarding the setting of new dates prior to me
5 getting on the phone.

6 But what I'm saying is whether Mintz Levin is on
7 the case or not, we'll meet on the 26th at 11:45 and set a
8 new schedule for this case to keep it moving forward.

9 Now, I will be in trial that date, so we'll only
10 have a brief period of time. So I'm urging you to resolve
11 what you can by way of new dates prior to the phone call
12 starting.

13 Any questions, Mr. Odom?

14 MR. ODOM: No, Your Honor.

15 THE COURT: Any questions from Microsoft?

16 MR. MICALLEF: Yes, Your Honor. One question on
17 the meet and confer either with Mr. Odom or with Mintz
18 Levin, as the case may be, on new dates. Should we assume
19 that the trial date will remain as it is presently
20 scheduled?

21 THE COURT: I think we can still make that happen.
22 It depends on where you think things are with regard to
23 dispositive motions and the backdrop for that by way of
24 experts, but let's work on making that happen so we don't
25 lose that date.

1 MR. MICALLEF: Sure.

2 And then the only other question was, I can assume
3 we'll pick up the schedule where it was stayed at that
4 point?

5 THE COURT: As best we can, yes.

6 MR. MICALLEF: Okay. Thank you, Your Honor.

7 THE COURT: From Autodesk, for now I'm going to
8 continue to set this up as a trailing case. You don't have
9 to participate time on the 26th unless you would like to.
10 Do you want to be involved on the 26th?

11 MR. FREED: Yes, Your Honor.

12 THE COURT: All right. Then we'll have you on and
13 we'll just set a trailing schedule for it.

14 So stay in touch with Microsoft. You can
15 participate or not in the meet and confer so that you can
16 intelligently set up a trailing schedule.

17 MR. FREED: Thank you, Your Honor.

18 THE COURT: Any further questions from Autodesk?

19 MR. FREED: No, Your Honor.

20 THE COURT: Thank you. Good day.

21 (Proceedings concluded.)

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I certify, by signing below, that the foregoing is a correct transcript of the record of proceedings in the above-entitled cause. A transcript without an original signature or conformed signature is not certified.

/s/Bonita J. Shumway

3/16/10

BONITA J. SHUMWAY, CSR, RMR, CRR
Official Court Reporter

DATE